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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/050,902	01/18/2002	Wolfgang A. Renner	1700.0190004/BJD/SJE	7792
26111	7590	06/01/2006	EXAMINER	
STERNE, KESSLER, GOLDSTEIN & FOX PLLC 1100 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			MOSHER, MARY	
			ART UNIT	PAPER NUMBER
			1648	

DATE MAILED: 06/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/050,902	<b>Applicant(s)</b> RENNER ET AL.	
	<b>Examiner</b> Mary E. Mosher, Ph.D.	<b>Art Unit</b> 1648	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 24 February 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 220-262, 265-267, 311-316, 319, 320, 359-411, 436-443 and 459-465 is/are rejected.
- 7) ☒ Claim(s) 268-272, 275-280, 283-285, 292-297, 300-306, 309, 310, 329-332, 335-358, 412-435, 443-458 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**Continuation of Disposition of Claims: Claims pending in the application are 220-262,265-272,275-280,283-285,292-297,300-306,309-316,319,320,329-332 and 335-465.**

## **DETAILED ACTION**

### ***Terminal Disclaimer***

The terminal disclaimer filed on 2/24/2006 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of 10/289454 has been reviewed and is accepted. The terminal disclaimer has been recorded.

### ***Double Patenting***

At least claims 220-258, 311-316, 319-320, 359-404, 436-443, 459-465 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over at least claims 25, 27, 29-33, 45, 66, 79-83 of allowed copending Application No. 10/289456. Although the conflicting claims are not identical, they are not patentably distinct from each other because the instant claims embrace the previously allowed subject matter.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

At least claims 220-262, 265-267, 359-411, 459-465 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over at least claims 22-24, 51-54, 56 of copending Application No. 10/264267. Although the conflicting claims are not identical, they are not patentably distinct from each other because the instant claims embrace the previously allowed subject matter.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

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Please note, there have been a large number of copending applications filed. If any of the pending applications are allowed before this one, then additional terminal disclaimers may be required (if the allowed claims involve RNA phagelike particles, non-sulfhydryl attachment sites, and any species of self antigen).

***Allowable Subject Matter***

Claims 268-272, 275-280, 283-285, 292-297, 300-306, 309, 310, 329-332, 335-358, 412-435, 443-458 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, or if the above double patenting issues are resolved.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mary E. Mosher, Ph.D. whose telephone number is 571-272-0906. The examiner can normally be reached on varied.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bruce Campell can be reached on 571-272-0974. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



**MARY E. MOSHER, PH.D.  
PRIMARY EXAMINER**

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

5/27/06